

# **EXHIBIT 8**



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## Aussie eyes Apple, Google over 'cloud' music patents

Brett Winterford | Jul 6, 2011 7:00 AM

*P2P pioneer uses Kazaa ruling to demand licence fees.*

Sydney entrepreneur Kevin Bermeister has been granted three new US patents which his company plans to use to demand license fees from hosted music download service providers such as Apple and Google.

The patents, granted in May, described how file hashes and other content-based identifiers could be used to identify data in distributed systems.

The US Patent Office granted to Kinetech, a subsidiary of Bermeister's 'Brilliant Digital Entertainment' (BDE), patents that described:

distributing and accessing data in a data processing system (7,945,539);  
similarity-based access control of data in a data processing system (7,945,544); and  
de-duplication of data in a data processing system (7,949,662).

Kinetech is the lesser known cousin of another BDE subsidiary Altnet - a Bermeister-controlled company that supplied technology to peer-to-peer file swapping service Kazaa.

Kinetech was established to manage patents on behalf of decorated American technologists David Farber and Ronald Lachman.

Over the past dozen years, Kinetech has also been granted patents for:

identifying and requesting data in network using identifiers which are based on contents of data (5,978,791);  
identifying data in a data processing system (6,415,280);  
enforcement and policing of licensed content using content-based identifiers for use in peer-to-peer and distributed computing technologies (6,928,442), which was re-examined by the US Patent Office last year; and  
controlling access to data in a data processing system (7,802,310).

In layman's terms, the sum of the patents cover the process by which multiple copies of the same file, such as a song, are stored on a distributed network and ranked according to their proximity to a user searching for the file.

The de-duplication patent specifically covers the function of identifying and controlling these options and reducing them down to the most effective, accurate and fastest to download.

BDE business development manager Michael Speck told *iTnews* that the patents play a role in any online activity involving the location, management and distribution of content.

This would concern industries such as VOIP, cloud services and digital content distribution.

But *iTnews* has learned that the company intends to use the patents specifically to pursue licensing deals with providers of cloud music services offered by Apple, Google and others.

### **Proof in Federal Court ruling?**

BDE will back up its patent claims with references to a landmark 2005 ruling in the Federal Court of Australia.

In the 'Kazaa' case (*Universal Music vs Kazaa Networks*), the Federal Court found that Bermeister and five others associated with the companies Sharman Networks and AltNet had "knowingly allowed Kazaa users to illegally swap copyrighted songs".

Speck said that the use and effectiveness of the patented technology was relied on by the representatives of the global music industry and by the court..

Speck said BDE has already licensed its technology to Skype, Iron Mountain, Level 3, Audible Magic, Limewire and several other companies.

"We have a record of long-term use of these patents, with a proven commercial capacity," Speck told *iTnews*.

"These new patents reaffirm and consolidate BDE's control over foundation stones of distributed computing.

"We intend to pursue infringers – but given the clarity of patents involved, we don't expect any legitimate business would reject the opportunity to license."

Speck would not reveal which organisations Brilliant Digital Entertainment intended to target with its patent claims, but left a very big hint: "A cloud music service is Napster or Kazaa with a license," he said.

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